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THIS BOOK PRESENTED BY

Francis Newton Thorpe

Constitutional Convention of Pennsylvania.

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EXECUTIVE COMMITTEE ROOMS,
PHILADELPHIA, November 18, 1873.

TO THE PEOPLE OF PENNSYLVANIA:

The Convention assembled by your direction to reform the Constitution of the State have finished the work which you gave them to do. In submitting it for your approval we invoke your careful consideration. That it is without fault we dare not affirm, but that it adds new and valuable securities to the rights of person and of property we confidently assert. The mode by which the members of the Convention were elected secured a body of men who had neither the opportunity nor the inclination to mould the instrument in the interests of any party, or of any private interest whatever.

It would be manifestly inappropriate to attempt any detailed analysis of the proposed Constitution, but it is proper that its leading features should be briefly indicated. It consists of eighteen articles, viz.:

ARTICLE I.—*Bill of Rights.*

ARTICLE II.—*The Legislature.*

ARTICLE III.—*Legislation.*

ARTICLE IV.—*The Executive.*

ARTICLE V.—*The Judiciary.*

ARTICLE VI.—*Impeachment and Removal from Office.*

ARTICLE VII.—*Oaths of Office.*

ARTICLE VIII.—*Suffrage and Elections.*

ARTICLE IX.—*Taxation and Finance.*

ARTICLE X.—*Education.*

ARTICLE XI.—*Militia.*

ARTICLE XII.—*Public Officers.*

ARTICLE XIII.—*New Counties.*

ARTICLE XIV.—*County Officers.*

ARTICLE XV.—*Cities and City Charters.*

ARTICLE XVI.—*Private Corporations.*

ARTICLE XVII.—*Railroads and Canals.*

ARTICLE XVIII.—*Future Amendments.*

To these is added the Schedule, which embraces such temporary provisions as are necessary to regulate the changes which have been made, and to put the new Constitution, if adopted, in effective operation. Under these heads are embraced all matters which were thought to be appropriate to constitutional provision. It has carefully avoided matters of detail, except in such particulars as it was supposed either from their great importance or the difficulty attending legislative enactment, might render legislation difficult or insufficient.

The Committee desires to call attention to the following important particulars, in which the proposed Constitution differs from that now in force.

The General Assembly will consist of fifty (50) Senators, and such number of members of the House of Representatives as shall be determined by dividing the population of the State, as ascertained by the most recent United States census, by two hundred; but every county shall have at least one representative. Under this apportionment the House will consist of about two hundred members. This change is accompanied by such provisions as will for the most part avoid legislative apportionments, which experience has shown to be made usually in the interest of the dominant party and sometimes at the sacrifice of fair representation.

The regular sessions of the Legislature will be held only every other year, but the Governor may, in an emergency, convene it in special session.

The increased number is not equal to the ratio of representation when the existing Constitution was adopted, and was deemed important not only as maintaining a ratio of representation approximating to our increase of population, but because it was believed that an increase of members would render improper influences more difficult, and would ensure a more faithful exercise of legislative functions.

The article on legislation requires that every bill shall be read at length on three different days in each House, and no bill shall become a law unless passed by a majority of the members elected to each House; nor unless on its final passage the vote is taken by yeas and nays and the vote of each member entered on the journal. The Legislature is restrained from passing local or special laws upon a number of specified subjects, which it was thought could be much more appropriately embraced within general laws of uniform operation. Among the subjects upon which special laws are prohibited are: Laws regulating the affairs of counties, cities or townships, or prescribing the duties of their officers; changing the laws of descent or succession; granting divorces; regulating the practice or jurisdiction of courts, aldermen or justices of the peace;

to change the methods of collecting debts or the lien of judgments; regulating official fees or remitting fines, penalties and forfeitures, or refunding moneys legally paid into the State Treasury; or exempting property from taxation; or erecting corporations or granting special or exclusive privileges or immunities to corporations—all of which were fruitful sources of popular suspicion of legislative corruption, and all of which can be more efficiently and justly provided for by general laws, and some of which are peculiarly within the province of judicial determination, and ought not to be open to the shifting and uncertain action of the Legislature.

The Legislature is also restrained from limiting the amount to be recovered for injuries resulting in death; or for injuries to persons or property; or from exchanging or releasing any corporate obligation held by the State, except by payment of the money into the treasury. No local or special bill can be passed unless notice of the intention to apply therefor shall have been published in the locality where the thing to be affected may be situate, at least thirty days prior to the introduction of such bill, and evidence of such publication shall be exhibited to the Legislature before the act shall be passed.

To insure official fidelity, so far as possible, it is provided that any member of the General Assembly who shall solicit, demand or receive, or consent to receive, directly or indirectly, any money or thing of value or appointment, or personal advantage, or promise thereof, for his vote or official influence; or for withholding the same, shall be held guilty of bribery, and be disqualified from holding any office or position of profit in the State; and the like punishment is provided for any person who shall influence, or attempt to influence, corruptly, any member of the General Assembly.

Some important changes have been made in the Executive Department. The Governor shall hold his office for four years, but shall not be eligible for the next succeeding term; but this provision does not apply to the term of the present Governor. A Lieutenant Governor shall be chosen at the same time and for the same term, who shall be President of the Senate, but shall have no vote unless they be equally divided, and shall exercise the office of Governor in the event of the death or disability of that officer.

Executive appointments are to be made by and with the advice and consent of two-thirds of the Senate, who, in confirming or rejecting nominations, shall sit with open doors, and the vote be taken by yeas and nays and be entered on the journal.

The Secretary of Internal Affairs will take the place of the Surveyor General after his term expires, and will have charge of the Land Office; his department will also embrace a bureau of industrial statistics and such duties relating to corporations, to charitable institutions, the agricultural, manufacturing, mining, mineral, timber and other material interests of the State, as may be by law assigned thereto. The duties which will devolve upon this department will be of great advantage to the State, in presenting such reliable and valuable information of our natural resources and rapid development as will attract to the State both population and capital.

This article also authorizes the Governor to veto any one or more items of any bill making appropriations of money, and to approve the rest. This

is to correct an abuse of great magnitude and long standing, by which appropriations introduced into the general bill providing for the expenses of the State, and which of themselves could not be sustained, must be approved, or leave the State without appropriation for its support. It is a most valuable provision. This article also prohibits the Governor from granting pardons or commutations of sentence, except upon the recommendation in writing of the Lieutenant Governor, Secretary of the Commonwealth, Attorney General, Secretary of Internal Affairs, or any three of them, after full hearing, upon due public notice, and in open session: and such recommendation with the reasons therefor at length, shall be recorded and filed in the office of the Secretary of the Commonwealth.

The judiciary article requires the election of all judges, and continues the term of all present judges until the expiration of their commissions.

The number of Judges of the Supreme Court is increased to seven, and judges of that court elected under this Constitution will be commissioned for twenty-one years, and are ineligible to re-election. All patronage by appointment or otherwise is taken from them, and no duties can be imposed upon them except such as are judicial.

Each county having a population of 40,000 is constituted a separate judicial district and entitled to elect a judge. The office of Associate Judge not learned in the law is abolished in counties forming separate districts, but Associate Judges in office, when this Constitution is accepted, serve for their unexpired terms.

The increase of judges under this provision is not large, and the increased expense not great. Whilst some additional duties imposed upon judges will render this provision of great convenience to the people, more especially of sparsely settled districts, it is to be observed that whilst the provision entitles any county having the requisite population to be constituted a separate judicial district, it does not require that there shall be, as has been erroneously stated, a judge for every 40,000 of population.

The Court of Nisi Prius is abolished, and no court of original jurisdiction, to be presided over by any Judge of the Supreme Court, can be established. The great inconvenience to which the appellate business of the Supreme Court was subjected by reason of this Court is well known, both to counsel and suitors.

To the end that the judicial system of the State should be harmonized, and the law and practice of the courts brought into unison throughout the Commonwealth, District Courts have been abolished, and their jurisdiction merged in that of the Courts of Common Pleas; and their Judges will become Judges of the Courts of Common Pleas.

The Register's Court is abolished as being supernumerary and useless.

In counties wherein the population exceeds 150,000, the General Assembly *shall*, and in any other county *may*, establish a separate Orphans' Court, and thereupon the jurisdiction of the Court of Common Pleas in Orphans' Court matters in such county shall cease. The Judge of the Orphans' Court, assisted by the Register, who will be *ex officio* clerk of such Orphans' Court, shall audit all accounts which require auditing *without expense to the parties*.

In civil cases the parties may, by agreement filed, dispense with trial by jury, and submit the case to the decision of the Court, with right to writ of error as in other cases.

Justices of the peace continue without any material change.

In Philadelphia the office of alderman is abolished, and, in lieu thereof, there shall be established for each 30,000 inhabitants one court, not of record, of police and civil causes, with jurisdiction not exceeding one hundred dollars. The magistrates are to hold office for five years, and to be elected by general ticket by the qualified voters at large. No voter shall vote for more than two-thirds of the number to be elected. They shall be compensated only by fixed salaries to be paid by said county, and all fines, fees, and penalties are to be paid into the County Treasury. Under this system it is believed that competent and reliable aldermen, approved by official experience and integrity, will be retained, and only men of approved fitness will be elected, since the mode of election allows large discrimination in choice, which in so large a constituency will be freely exercised.

The Sixth Article subjects the Governor and all other civil officers of the Commonwealth to impeachment for misdemeanor in office, and subjects all appointed officers—other than judges of the Courts of record and the Superintendent of Public Instruction—to removal, at the pleasure of the power by which they shall have been appointed.

The Seventh Article requires Senators and Representatives, and all Judicial, State and County officers, to take and subscribe the usual oath to support the Constitution and discharge their duties of office with fidelity; and, in addition, that they have not knowingly violated any election laws of the Commonwealth, or procured it to be done by others, and that they will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to such office other than the compensation allowed by law; and provides that any one convicted of having sworn or affirmed falsely shall be guilty of perjury and forever disqualified for holding any office of trust or profit within this Commonwealth.

The Article on Suffrage and Election provides that the general elections shall be held annually on the Tuesday next following the first Monday of November, but the General Assembly may by law fix a different day, two-thirds of all the members of each House consenting thereto. Elections for city, ward, borough and township officers will be held on the third Tuesday of February. In elections by the citizens, every ballot voted shall be numbered in the order in which it shall be received, and the number recorded on the list of voters opposite the name of the voter. Soldiers in service may vote under such regulations as may be prescribed by law. All laws regulating elections by the citizens shall be uniform throughout the State. Any person who shall give or promise, or offer to give to any elector, or any elector who shall receive any money or other valuable consideration for his vote, or for withholding his vote, shall forfeit his right to vote at such election, and if challenged for such cause, shall be required to swear or affirm that the matter of the challenge is untrue, before his vote shall be received. Any candidate for office guilty of bribery, fraud or willful violation of any election law, is disqualified from holding any office of trust or profit in this Commonwealth, and to be deprived of the right of suffrage for a term of four years.

The Court of Common Pleas of the several counties shall have power upon petition of five citizens, lawful voters of the district, to appoint two

overseers of election to supervise the proceedings of the election officers, and to make report to the Court, as may be required.

The trial of contested elections of electors of President and Vice President of the United States, members of the General Assembly, and all public officers, judicial, municipal or local, shall be by the Courts, as may be prescribed by general law.

The Article on Taxation and Finance requires that all taxes shall be uniform upon the same class of subjects. All property shall be subject to taxation, but the General Assembly may, by general law, exempt public property used for public purposes, actual places of religious worship, places of burial not held for private or corporate profit, and institutions of purely public charity.

Neither the State, nor any county, city, borough or township shall loan their credit or become stockholders in any company, association or corporation.

Municipal debts shall not exceed seven per cent. of the assessed value of its taxable property; but any city, the debt of which now exceeds seven per centum of such assessed valuation, may be authorized by law to increase the same three per centum, in the aggregate at any one time, upon such valuation.

The State sinking fund shall be maintained, and the debt reduced by not less than \$250,000 per annum; and the money of the sinking fund shall not be invested or loaned upon the security of anything except the bonds of the United States or of this State.

The making of profit out of public money, or using it for any purpose not authorized by law, shall be a misdemeanor, punishable by law—and part of the punishment shall be disqualification to hold office for a period not less than five years.

The Tenth Article requires the maintenance of an efficient system of public schools and an appropriation of one million of dollars each year for this purpose. It forbids the appropriation of any of the school fund to the support of any sectarian school, and renders women eligible to any office of control of the schools.

The Eleventh Article provides for the organization of the Militia.

The Twelfth forbids persons holding offices of profit under the United States from holding office of profit under the State, and disqualifies all persons who shall fight a duel, or send a challenge for that purpose, or be aider or abettor of a duel, from holding any office of honor or profit in this State.

The Thirteenth Article forbids the erection of any new county which shall reduce any county to less than four hundred square miles, or less than 20,000 inhabitants, or the erection of any county of less area or less population, nor shall any line thereof pass within ten miles of the county seat of any county proposed to be divided.

The Fourteenth Article provides for the election and qualification of county officers. In counties exceeding 150,000 inhabitants, all county officers shall be paid by fixed salaries, and all fees collected shall be paid into the county treasury. In the election of County Commissioners in any county, each elector shall vote for no more than two persons, and the three persons having the highest number of votes shall be elected. This is to secure a representative of the minority party in every board of commissioners.

Under the Fifteenth Article cities may be chartered whenever any town or borough of not less than 10,000 population shall vote in favor of it. They shall contract no debt except in pursuance of an appropriation previously made, and they shall create a sinking fund pledged for its payment.

By the Article on Private Corporations, the State may, under its rights of eminent domain, take the property and franchise of incorporated companies and subject them to public use, the same as the property of individuals.

Foreign corporations are required to have a place of business and an authorized agent within the State upon whom process may be served. Corporations are confined expressly to the business authorized by their charters. Assessments of damages shall, on demand of either party, be determined by a jury. All fictitious increase of stock or indebtedness is forbidden.

Any association or corporation organized for the purpose, or any individual shall have the right to construct and maintain lines of telegraph within the State, and connect the same with other lines, subject to regulation by law.

The Seventeenth Article on Railroads and Canals provides for a free railroad law in the fullest and most explicit manner, and gives to every railroad company the right, with its road, to intersect, connect with or cross any other railroad, and requires them to transport each the other's passengers, tonnage and cars loaded or empty without delay or discrimination. It requires them to maintain an office in the State, where transfers of stock are to be made, and where books shall be kept for inspection by parties in interest.

All persons shall have equal right of transportation, and no unreasonable discrimination shall be made in charges or in facilities for transportation, and persons and property shall be delivered at any station at charges not exceeding the charges for transportation of persons and property of the same class in the same direction to any more distant station.

Railroad companies are forbidden to consolidate with, or own, or control competing lines, or to engage in any other business than that of common carriers, or to own or acquire lands, except such as shall be necessary for carrying on its business; discriminations in charges by drawbacks or otherwise are forbidden. Free passes, except to officers and employees, shall not be issued.

Street passenger railroads shall not be constructed without the consent of local authorities.

The Article on Future Amendments authorizes amendments to the Constitution, when proposed by the act of two successive Legislatures and submitted to and approved by the people, but no amendment shall be submitted oftener than once in five years. When two or more amendments are submitted, they shall be voted upon separately.

The Schedule provides that the Constitution shall take effect on the first day of January, 1874. The first election for Governor shall be in 1875, for a term of three years, and thereafter the term shall be four years. The Lieutenant Governor shall be elected in 1874, for four years. Provision is also made for the first election of senators and members, for

judges and county officers and other matters of detail, but it is not deemed necessary to refer to them specifically.

This review of the proposed Constitution gives a brief synopsis of its leading features, but it is not intended to supersede the examination of its full text. We confidently believe that the more carefully it is considered, and its dependent bearings understood, the more it will commend itself to public approval. It is the result of careful and impartial deliberation by the Convention upon the true relations of the Government to the people, and is submitted with full confidence that if adopted it will correct great abuses, ensure a more perfect system of popular elections, greater fidelity in the discharge of legislative and official duties, save vast sums of money to the treasury, reduce taxation and, by the additional securities it will afford to business investments, will insure to our State both population and capital. With hope and confidence that the new Constitution will receive your approval, we submit it to your judgment.

W. H. ARMSTRONG, *Chairman*

HARRY WHITE,

CHAS. R. BUCKALEW,

THOMAS HOWARD,

ROBERT A. LAMBERTON,

GEORGE V. LAWRENCE,

JAMES W. M. NEWLIN,

JOHN GIBSON,

JOHN R. READ,

JNO. PRICE WETHERILL,

JAMES P. BARR,

RASSELAS BROWN,

FRANK MANTOR.

Executive
Committee
of the
Convention.



